

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC04-046, Planned Development rezoning and construction of up to four single-family detached residences on a .23 gross acre site located on the eastside of Cypress Avenue approximately 260 feet southerly of Stevens Creek Boulevard (332 South Cypress Avenue) (Mirzadegan Abdy Et Al, Owner; Mr Abdy Mirzadegan, Developer).
Council District: 1

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **December 8th, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **Friday, November 19, 2004** and ends on **Wednesday December 8th, 2004**.

A public hearing on the project described above is tentatively scheduled for December 8th, 2004 at 6:00 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Hillview Branch Library, 2255 Ocala Avenue, San Jose, CA 95122, and online at <http://www.sanjoseca.gov/planning/eir/MND2004.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call Rebekah Ross at (408) 277-3748.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 19, 2004

Deputy

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Cypress Quarters

PROJECT FILE NUMBER: PDC04-046

PROJECT DESCRIPTION: Planned Development Rezoning from Commercial Neighborhood (CN) District to an A(PD) Planned Development District to allow to four single-family detached residences on a 0.23 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Eastside of Cypress Avenue, approximately 260 Feet southerly of Stevens Creek Boulevard (332 Cypress Avenue); 303-33-012

COUNCIL DISTRICT: 1

NAME OF APPLICANT: Mohammad Rahmani, Abdy Mirzadegan, Farajollah Ettefagh

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Mohammad Rahmani
940 Saratoga Avenue, #112
San Jose, CA 95129

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AESTHETICS. No mitigation is required.

AGRICULTURE RESOURCES. No mitigation is required.

AIR QUALITY. The following construction practices shall be implemented during all phases of construction for the proposed project.

- Water all active construction areas at least twice daily or as often as needed to control dust emissions.

- Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES. No Mitigation is required.

CULTURAL RESOURCES. No Mitigation is required.

GEOLOGY AND SOILS. No Mitigation is required. Standard construction methods and the recommendations of the geotechnical reports have been incorporated into the design of the project.

HAZARDS AND HAZARDOUS MATERIALS. No Mitigation is required. Removal and discards of any asbestos containing materials shall be performed by a proper licensed contractor.

HYDROLOGY AND WATER QUALITY. Zoning Phase

Prior to the issuance of a grading permit, the applicant must submit a Notice of Intent to the State Water Resources Control Board and prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity to the satisfaction of the Director of Public Works.

Planned Development Permit Phase

Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific best management practices (BMPs) including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled, “No dumping – Flows to Bay” to the satisfaction of the Director of Planning, Building and Code Enforcement.

Construction Phase Mitigation:

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust producing activities would be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
- During construction, all trucks hauling soil, sand and other loose materials would be covered and/or all trucks would be required to maintain at least two feet of freeboard.
- All paved access roads, parking and staging areas and residential streets adjacent to the construction sites would be swept daily with water sweepers.

The proposed project shall implement post construction.

Post Construction Mitigation:

- Plant vegetation to control erosion and enhance sediment entrapment. Deep-rooted plants help to build soil porosity. Plant leaf surface area helps to collect rainwater before it lands on the soil. Turf grass lawns, woody perennials and cobbles can all be used. Trees are also a highly effective in retaining rainwater before it lands on the soil.
- Integrate into all landscaped areas grassy swales (biofilters). Parking lots should drain to the grassy swales.
- Permeable pavements should be installed to the greatest extent possible. Permeable pavement types include pervious concrete, porous asphalt, turf block, brick, natural stone, concrete unit pavers, crushed aggregate and cobbles. Driveways, pedestrian walkways and surface parking area are ideal locations for permeable paving materials.
- Rooftop areas should drain directly into landscaped areas. Benign roofing materials should be used.

LAND USE AND PLANNING. No mitigation is required.

MINERAL RESOURCES. No mitigation is required.

NOISE. *Temporary Construction:* The following measures have been included to reduce potential construction related noise impacts.

1. Construction activities will be limited to the period between 7:00 AM and 7:00 PM Monday through Friday for any activity, on or off-site, within 500 feet of residential uses.
2. The contractor will be required to use “new technology” power construction equipment with state of the art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and would be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

POPULATION AND HOUSING. No mitigation is required.

PUBLIC SERVICES. No mitigation is required.

RECREATION. No mitigation is required.

TRANSPORTATION / TRAFFIC. No mitigation required.

UTILITIES AND SERVICE SYSTEMS. No mitigation required.

MANDATORY FINDINGS OF SIGNIFICANCE. No mitigation required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on December 8, 2004, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more

significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 19, 2004

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **ZONING** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

Planning Commission Hearing
Wednesday, December 08, 2004
6:00 p.m.

City Council Chambers, Room 205
City Hall
801 North First Street
San Jose, CA 95110

City Council Hearing
Tuesday, December 14, 2004
7:00 p.m.

City Council Chambers, Room 205
City Hall
801 North First Street
San Jose, CA 95110

The project being considered is:

PDC04-046. Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow 4 single-family detached residential units on a 0.23 gross acre site, located at the eastside of Cypress Avenue approximately 260 feet southerly of Stevens Creek Boulevard (332 South Cypress Avenue) (Mirzadegan Abdy Et Al, Owner; Mr Abdy Mirzadegan, Developer). Council District 1. SNI: None. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, CA 95110
(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

** If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, Rebekah Ross**, at the e-mail address: rebekah.ross@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to



the above file number for further information on this project.

Joseph Horwedel,
Deputy Director, Plan Implementation Division

Dated: November 17, 2004

Lee Price, CMC
City Clerk

Noticing Radius: 500 ft

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAL PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezoning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions